

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STATE OF WISCONSIN,

Plaintiff,

ORDER

v.

SHAWN WINRICH, et al.

16-cv-64-wmc
App. No. 16-1317

Defendants.

Plaintiff Shawn Winrich filed a Notice of Removal, seeking to remove a case in which he is a criminal defendant from Marquette County Circuit Court. *State of Wisconsin v. Winrich*, Case No. 2015CM000096. On January 28, 2016, this court remanded this matter back to Marquette County Circuit Court and dismissed this case. Now Shawn Winrich has filed a notice of appeal. Because he has not paid the \$505.00 appellate docketing fee, he presumably requests leave to proceed *in forma pauperis* on appeal.

In determining whether a litigant is eligible to proceed *in forma pauperis* on appeal, the court must find that he is indigent and, in addition, that the appeal is taken in good faith for purposes of Fed. R. App. P. 24(a)(3). *See* 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken *in forma pauperis* if the court certifies in writing that it is not taken in good faith.”). Although Winrich may qualify as indigent, the court cannot certify that the appeal is taken in good faith. In that respect, the United States Court of Appeals for the Seventh Circuit has instructed district courts to find bad faith where a plaintiff is appealing claims that have been dismissed as frivolous. *See Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). To the extent that Winrich is attempting to raise on appeal

the same legally frivolous claims he raised in his complaint, the court certifies that the appeal is not taken in good faith for purposes of Fed. R. App. P. 24(a)(3). Accordingly, his implicit request for leave to proceed *in forma pauperis* on appeal must be denied.

ORDER

IT IS ORDERED that:

1. The court CERTIFIES that the appeal is not taken in good faith for purposes of Fed. R. App. P. 24(a)(3).
2. Plaintiff Shawn Winrich's request for leave to proceed *in forma pauperis* on appeal is DENIED.
3. Although this court has certified that the appeal is not taken in good faith under Fed. R. App. P. 24(a)(3), Winrich is advised that he may challenge this finding pursuant to Fed. R. App. P. 24(a)(5), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, United States Court of Appeals for the Seventh Circuit, within thirty (30) days of the date of this order.

Entered this 29th day of February, 2016.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge